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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,061	09/17/2003	William E. Kinsman	OBR01 P-301	6858

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EXAMINER

LEE, GUIYOUNG

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/667,061	KINSMAN ET AL.	
	Examiner	Art Unit	
	Guiyoung Lee	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prelim./Amdt.

1. Receipt is acknowledged of the amendment filed 02/21/2006.
2. Claims 1-16 are pending, and claims 1, 9 and 16 have been amended.

Response to Arguments

3. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection. In response to applicant's argument that King reference does not provide a means for attaching to headwear, examiner directs applicant's attention to the Fig. 4 of King's reference. King reference actually discloses a means for attaching to a headband member (see 16 in Fig. 4), and it allows a user to use the illuminating magnifying device hands free. Therefore, King reference teaches each and every element of the claimed invention. In response to applicant's argument that there would be no expectation of success in combining the King reference with the Sandberg device, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the King reference discloses a fastener (16 in Fig. 4) for attaching an illumination device to a headband. The King reference does not teach that the fastener is a clip. However, the Sandberg reference discloses an illumination device having a light-emitting source, and this light-emitting source is attached to a bill of a cap by a clip. Therefore, King suggests a clip for attaching the illumination device to a bill of a cap. Further,

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one of the ordinary skills in the art reasonably expects that King's fastener could be modified to a clip in order to attach the King's illumination device to a bill of a cap.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 4-14 are rejected under 35 U.S.C. 102(b) as being anticipated by B. W.

King (US 1,556,510).

6. Re claims 1 and 8: B.W. King discloses the claimed illuminating magnifying device (Fig. 1) comprising a housing (1 in Fig. 2) including a battery and a fastener (16 Fig. 4) adapted to attach the illuminating magnifying device to an article other than the illuminating magnifying device; a magnifier (8) attached to the housing (1); and an illuminator (2) attached to the housing (1) adapted to illuminate an area adjacent to the illuminating magnifying device.

Re claim 4: B.W. King discloses a hinge (5) which attaches the magnifier (8) to the housing (1).

Re claims 5-7: B.W. King discloses that the magnifier (8) may be positioned in an up position and in a down position by the hinge (5) such that the latitudinal axis of the magnifier(8) can be substantially parallel or perpendicular to the longitudinal axis of the housing (1).

Re claims 9-14: B.W. King discloses a method for viewing an object to a person, comprising the steps as set forth in the claims 9-14.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-3 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over B.W. King as applied to claims 1 and 9 above, and further in view of Sandberg (US 6,640,837 B2).

Re claims 2-3 and 15-16: The teachings of King have been discussed above. King does not teach that the fastener is a clip for fastening the device to a bill of the headwear. However, Sandberg discloses that a flashlight device is attached to a bill of the cap by a clip (12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute Sandberg's clip with King's fastener in order to attach the device to a bill of a cap.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Guiyoung Lee whose telephone number is 571-272-2374. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LGY



Sandra O'Shea
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Technology Center 2800